

No 11(112)-80-3 Lab/10113.—In pursuance of the provision of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Bolton Industrial Corporation, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 32 of 1978

between

SHRI LALA RAM SHARMA, WORKMAN AND THE MANAGEMENT OF M/S BOLTON INDUSTRIAL CORPORATION, FARIDABAD

nt.—

Shri P.K. De, for the workman.

Shri S.L. Gupta, for the management.

AWARD

By order No. ID/4321, dated 6th February, 1978, the Governor of Haryana referred the following dispute between the management of M/s. Bolton Industrial Corporation, Faridabad, and its workman Shri Lala Ram, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Lala Ram was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference notices were issued to the parties. The parties appeared and filed pleadings. On the pleadings of the parties, following issues were framed on 17th August, 1978 :—

1. Whether the workman was in the employment of the management ?
2. If issue No. 1 is proved, whether the termination of services of the workman was justified and in order ? If not, to what relief is he entitled ?

And the case was fixed for the evidence of the workman. The workman examined himself and closed his case. Then the case was fixed for the evidence of the management. The management examined Shri S.K. Rana, Time Office Incharge and Shri Ramesh Nalwa as MW-1 and MW-2 and closed their case. Then the case was fixed for arguments. Arguments were heard. I now give my finding issue wise :—

Issues No. 1 and 2.—The workman stated that he joined services of the management on 1st January, 1977. He met an accident while on duty and got treatment from the ESI Sector-16. He produced Exhibit W-1. He was victimised for his trade union activities. In cross examination he denied his signature on Exhibit M-1 to M-3. He further stated that he used to get wages on the register on which other workers were paid. He did not know which register his attendance was marked. He denied a suggestion that he came on duty for the first time in the month of April, 1977.

MW-1 stated that he had brought payment of wages register. Shri Lala Ram workman was their employee. His father's name is Shri Mehal Singh. He was a watchman. He further stated that the workman present in the factory was not their employee. His name did not appear in the machine shop. He further stated that a factory named as M/s. Tyconpaper Company India (P) Limited carried on its work in their premises. He did not know whether the concerned workman was working in that factory. He further stated that in case some workman fell ill he stated that he had forgotten his ESI card at his house, a farm as Exhibit W-1 was issued to him. He could not identify signature of any of the officer on the form although he admitted seal of the factory on it. In cross examination he stated that in their factory there was only one Lala Ram, son of Shri Mehal Singh. MW-2 Shri Ramesh Nalwa, Timekeeper of Tycon Paper Company India (P) Ltd., stated that Shri Lala Ram joined services on 9th April, 1976, as per their attendance register. His father's name was shown as Shri Godar.

Mal. He was a pressman in the machine shop. He remained in service up to 13th October, 1977. According to the wages register he had been paid for the entire period. The factory was registered in the ESI at number 13/7291/66. The workman was also registered in the ESI at serial No. 22.

In the written statement the management had taken stand that the workman was in their employment P/Man at a salary of Rs. 183/- P.M. with effect from 9th April, 1973. He was kept on probation for a period of six months. During the course of employment his work was not found up to the mark. He was told to be careful. He was not found fit to be retained in the company, therefore, his services were terminated with effect from 10th April, 1977. This written statement is dated 14th April, 1978. The management again filed amended written statement which is dated 17th August, 1978. In this written statement the management took stand that Shri Lala Ram was not under employment of Bolton Industrial Corporation, Faridabad and there was no question of termination of his services by this management. They further averred that the management had come to know that the claimant was employed with M/s. Tycon Paper Company India Ltd. which has its office in the same premises. His services were terminated by this management as probationer. In these two written statements, the management had admitted the termination of services of the workman as a probationer. The stand taken in the amended written statement is complete contradiction of their previous written statement. In this statement also the management had clearly stated that his services were terminated by this management as probationer. Thus they have blown hot and cold together. I have gone through Exhibit M-1. This is a printed form. Letter head of this form has been torn and it starts as "14/3 Mile Stone, Mathura Road Faridabad". Then a stamp of M/s. Toyoc Paper Company (P) Limited 14/3 Mile Stone Mathura Road, Faridabad, has been affixed. Signature of Shri Lala Ram, workman appear on this appointment letter. This workman has been addressing letters to M/s. Bolton Industrial Corporation, 14/3, Mathura Road, Faridabad. Exhibit W-1 ESI form produced by the workman bear stamp of the respondent. I do not find any reason why the workman should have impleaded wrong party management while he had put in service with the other. Statement of MW-2 is a manipulation. On my above discussions, I am satisfied that the workman was under the employment of the respondent management. As far as issue No. 2 is concerned, the management has taken a different stand and did not produce any evidence on this issue. Therefore, this issue is also decided, against the management.

While answering the reference, I give my award that the termination of services of the workman was neither justified, nor in order. The workman Shri Lala Ram is entitled to reinstatement with continuity of service and with full back wages.

dated: 28th August, 1980.

M.C. BHARDWAJ,
Presiding Officer, Industrial
Tribunal, Haryana, Faridabad

No. 778, Dated: 27th August, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M.C. BHARDWAJ,
Presiding Officer, Industrial
Tribunal, Haryana, Faridabad

No. 11(112)-80-3-Lab/10114.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management M/s. Monga Engg. and Mfg. CO. (P) Ltd., Faridabad.

BETWEEN M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 534 of 1978

Between

SHRI RAJ PAL BHATIA, WORKMEN, AND THE MANAGEMENT OF M/S. MONGA ENGINEERING AND MANUFACTURING CO. (P) LTD., FARIDABAD.

Present.—

Shri Chaman Lal, for the workman.
Shri S. L. Gupta, for the management

AWARD

By order No. ID FD 217-78/52145, dated the 22nd January, 1978 the Governor of Haryana referred the following dispute between the management of M/S. Monga Engg. and Mfg. Co. (P) Ltd., Faridabad, and its workman Shri Raj Pal Bhatia to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Rajpal was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 1st June, 1979:—

1. Whether the workman offered for voluntarily retrenchment and thus abandoned his services of his own ?
2. Whether the workman has been paid of his dues and claims in full and final settlement of the entire dispute ?
3. Whether the termination of services of the workman was justified and in order ?
4. Relief

And the case was fixed for the evidence of the management. The management examined Shri Tilak J. Manager and Shri Navin Kumar Millingman and closed their case. Then the case was fixed for the evidence of the workman. The workman was granted many opportunities and then he stopped appearing in the proceedings and the case was proceeded *ex parte* against the workman. Arguments were heard. Now I give my findings issue wise:—

Issue No. 1. —MW-1 stated that the workman was appointed in December 1975. His services were not terminated by him due to voluntary retrenchment. He produced Exhibit M. 1, application of the workman signed by him and Exhibit M. 3 full and final certificate and in his application the workman requested the management that his services be terminated. He signed the certificate Exhibit M-3 stating that he left the services of the Company and got his full and final dues. Further he will have no claim against the company. The workman did not appear to rebut the statement of MW-1. Therefore, considering it, I decide this issue against the workman and hold that he abandoned his services of his own.

Issue No. 2. —MW-2 stated that the concerned workman received his full and final settlement, —*vide* Exhibit M-2. Payment was made before him and he signed as a witness. The documents bear his signatures and the workman on revenue stamp in token of receipt of Rs. 639-92. Therefore, this issue is decided in favour of the management.

Issue No. 3. —In view of my finding on issue No. 1 this issue has become redundant.

Issue No. 4. —The workman is not entitled to any relief.

While answering the reference, I give my award that the management did not terminate the services of the workman rather the workman abandoned his services of his own. The workman is not entitled to any relief.

Dated the 19th August, 1980.

M. C. BHARDWAJ,
Presiding Officer Industrial,
Tribunal, Haryana, Faridabad.

No. 780, dated the 27th August, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

M. C. BHARDWAJ,

Presiding Officer, Industrial
Tribunal Haryana, Faridabad.

No. 11(112)-80-3-Lab/10439.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of S. Suraj Lamp and Industries (P) Ltd., 65-A Industrial Area, NIT, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Reference No. 590 of 1978

Between

SHRI SHYAM SUNDER CHOPRA WORKMAN AND THE MANAGEMENT OF M/S. SURAJ
LAMP AND INDUSTRIES (P) LTD., 65-A, INDUSTRIAL AREA, NIT, FARIDABAD.

Present.—

Shri S. R. Gupta, for the workman.

Shri R. C. Sharma, for the management.

AWARD

By order No. ID/ID/14-76/48795, dated the 27th October, 1978, the Governor of Haryana referred following dispute between the management of M/S. Suraj Lamp and Industries (P) Ltd., 65-A, Industrial Area, Faridabad, and its workman Shri Shayam Sunder Chopra, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Shayam Sunder Chopra was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 9th March, 1979 :—

1. Whether the enquiry is fair and proper ?
2. Whether the termination of services of the workman was justified and in order ?
3. Relief.

And the case was fixed for the evidence of the management. The management examined Shri A. S. Sharma, Enquiry Officer, and closed their case. Then the case was fixed for the evidence of the workmen, who was afforded many opportunities to lead his evidence but on the last date of hearing the representative for the workman pleaded no instructions. Therefore, his evidence was closed. *Ex parte* arguments were heard. Now I give my findings issuewise :—

Issue No. 1 and 2.—MW-1 Shri A. S. Sharma stated that he was appointed as Enquiry Officer *vide* Exhibit M-1 to enquire into the chargesheet Exhibit M-2 and 3 M. He held the enquiry. Enquiry proceedings are Exhibit M-4. He gave his finding Exhibit M-5.

I have gone through the file. The Enquiry Officer held him guilty on all the charges of misconduct, therefore, termination order was passed by the management. Believing unrebuted evidence of the management, I decide both the issues in favour of the management.

Issue No. 3.—The workman is not entitled to any relief.

On the findings given by me on the issues above, I, give my award that the workman is not entitled to any relief.

Dated the 4th September, 1980.

M. C. BHARDWAJ,
Presiding Officer, Industrial Tribunal
Haryana, Faridabad.

No. 823, dated the 5th September, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer, Industrial
Tribunal Haryana, Faridabad.

No. 11(112)-80-3/Lab/10441.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Haryana Polymers Corporation Plot No. 40, Sector-4, Faridabad.

BEFORE SHRI M.C. BHARADWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 43 of 1977

Between

Shri Bacchhi Ram workman and the management of M/s. Haryana Polymers Corporation; Plot No. 40, Sector-4, Faridabad.

Presents—Shri P.K. De, for the workman.
Shri B.R. Grover, for the management.

AWARD

By order No. ID/FA/2070-A-77/19778, dated 19th May, 1977, the Governor of Haryana referred the following dispute between the management of M/s. Haryana Polymers Corporation, Plot No. 40, Sector-4, Faridabad and its workman Shri Bachchi Ram, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Bachchi Ram was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, issues were framed on 27th March, 1979 as follows:—

1. Whether the workman abandoned his job of his own ?
2. Whether the termination of services of the workman was justified and in order ?
3. Relief.

And the case was fixed or the evidence of the management examined Shri Ashok Kumar as MW-1 and closed their case. Then the case was fixed for the evidence of the workman who examined himself and closed his case. Then the case was fixed for arguments. Arguments were heard. I now give findings issue-wise.

Issue Nos. 1 and 2.—MW-1 stated that the workman was employed in 1974. His name was struck off on August, 1975. The workman remained absent from 27th July, 1975 to 20th August, 1975. Letters Ex. M-1 and M-2 were sent to him under U.P.C. Ex. M-3 and M-4. He did not turn up even after these letters. In cross-examination he denied the suggestion that the management had agreed to take back the workman in service before the Labour Officer. He also stated that the address on Ex. M-1 and M-2 is the same as given by the workman at the time of employment. WW-1 stated that he was removed from service without any notice or enquiry.

I have gone through Ex. M-1 and M-2 which are copies of letters stating that the workman was absent from 28th July, 1975. He was called upon to report for duty in these two letters. The postal receipts are also in the file. The management by issuing letters to the workman have proved their bonafides. The absence is also proved by these letters. In view of my above discussions, I hold both the issues in favour of the management.

Issue No. 3.—The workman is not entitled to relief.

While answering the reference, I give my award that the management did not terminate the services of the workman, rather on the other hand the workman abandoned his job of his own by remaining absent. The workman is not entitled to any relief.

Date 4th September, 1980.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 821, dated the 5th September, 1980.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-80-3 Lab/10442.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of Haryana Roadways, Gurgaon:—

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 558 of 1978

Between

SHRI OM PARKASH WORKMAN AND THE MANAGEMENT OF HARYANA ROADWAYS,
GURGAON

Present—Shri Bhim Singh Yadav for the workman.
Shri K.L. Piplani for the management.

AWARD

By order No. ID/GG/21-78/52378, dated 23rd November, 1978, the Governor of Haryana referred the following dispute between the management of M/s Haryana Roadways, Gurgaon, and its workman Shri Om Parkash, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Om Parkash was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issue was framed on 20th August, 1979 :—

Whether the termination of services of Shri Om Parkash was justified and in order ? If not, to what relief is he entitled ?

And the case was fixed for the evidence of the management. The management examined Shri Tek Chand, Clerk and Shri K.L. Piplani, Legal Advisor and closed their case. Then the case was fixed for the evidence of the workman. The workman examined himself and closed his case. Then the case was fixed for arguments. Arguments were heard. I now give my finding on issue No. 1.

Issue No. 1.—The representative for the management argued that this was not a case of termination as claimed by the workman. The workman absented himself from duty and did not report even after letters from the management. Therefore, he was chargesheeted and enquiry was held. Shri Tek Chand Clerk MW-1 stated that the workman was chargesheeted,—*vide* Ex. M-1. It was delivered to him personally and he signed receipt. He was given a list of charges,—*vide* Ex. MW-1/3. The workman did not give his explanation. Shri K.L. Piplani was appointed as Enquiry Officer by the management,—*vide* Ex. MW-1/4. The workman received this letter and signed the same in token of it. The management received the finding of the Enquiry Officer which is Ex. MW-1/4. The workman was given final show-cause notice Ex. MW-1/6. A reminder Ex. MW-1/7 was given to the workman but he did not reply. Therefore, the management issued termination order Ex. MW-1/8. MW-2 stated that he was appointed Enquiry Officer. He conducted the enquiry, recorded the statement of witnesses and that of the workman. The workman signed his statement but did not produce any evidence. The workman stated as WW-1 that he was working with the respondent w.e.f. 1st February, 1973. He received chargesheet. He admitted that he did not reply the chargesheet. He further stated that he attended duty after the chargesheet and applied for leave for 18/19th March, 1976, 20th March being his rest day. He was not allowed duty since 2nd May, 1976. He admitted that he participated in the enquiry. In cross-examination he denied the suggestion that he refused to examine any defence witness.

I have gone through the enquiry file. The workman was absent from 2nd May, 1976. Letter was sent to the workman which is dated 17th June, 1976 but according to the file the workman did not reply this letter. A letter dated 9th August, 1976 was again sent to him that he should join his duty within seven days but this letter was also not replied. Therefore, he was chargesheeted. He joined the enquiry and also gave in writing to the General Manager that he remained absent due to the sickness of his children. Therefore, he may be allowed to join his duty. Action on this application shows that pending enquiry no orders can be passed. Another letter from the workman shows that he admitted his fault. This is dated 25th June, 1977.

I find that the workman was absent from 2nd May, 1976 continuously though in the chargesheet he was shown absent on two other occasions also. He was posted on sanitation duty. It is difficult for the management to carry out such a duty without prior intimation as a substitute for such duty is not available for whole time. According to the enquiry file the workman failed to intimate the management even after issue of two letters to him. Therefore, they had no option but to take the stringent action. The enquiry is fair. He was afforded full opportunity by the Enquiry Officer. Therefore, this issue is decided in favour of the management.

While answering the reference, I give my award that the termination of services of the workman was justified and in order. The workman is not entitled to any relief.

M. C. BHARDWAJ,

Dated the 29th August, 1980.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endst. No. 796, dated the 29th August, 1980

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.